



**SENATE AMENDMENT 4,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 1997 ASSEMBLY BILL 686**

April 28, 1998 – Offered by Senators DECKER, C. POTTER and DARLING.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 3, line 3: delete lines 3 to 12 and substitute:

3 “**SECTION 5m.** 118.125 (2) (cg) of the statutes, as affected by 1997 Wisconsin Act
4 (Assembly Bill 410), is amended to read:

5 118.125 (2) (cg) The school district clerk or his or her designee shall provide a
6 law enforcement agency with a copy of a pupil’s attendance record if the law
7 enforcement agency certifies in writing that the pupil is under investigation for
8 truancy or for allegedly committing a criminal or delinquent act and that the law
9 enforcement agency will not further disclose the pupil’s attendance record except as
10 permitted under s. 938.396 (1) to (1x). A school district clerk or designee who
11 discloses a copy of a pupil’s attendance record to a law enforcement agency for

1 purposes of a truancy investigation shall notify the pupil's parent or guardian of that
2 disclosure as soon as practicable after that disclosure.”

3 **2.** Page 8, line 10: delete lines 10 to 17 and substitute:

4 “**SECTION 21m.** 118.16 (6) (a) (intro.) of the statutes, as affected by 1997
5 Wisconsin Act (Assembly Bill 410), is amended to read:

6 118.16 **(6)** (a) (intro.) If the school attendance officer receives evidence that
7 activities under sub. (5) have been completed or were not required to be completed
8 ~~due to the child's absence from school~~ as provided in sub. (5m), the school attendance
9 officer may do any of the following:”

10 **3.** Page 13, line 6: delete lines 6 to 25.

11 **4.** Page 14, line 1: delete lines 1 to 5 and substitute:

12 “**SECTION 43m.** 895.035 (2m) (b) of the statutes, as affected by 1997 Wisconsin
13 Acts 35 and (Assembly Bill 410), is amended to read:

14 895.035 **(2m)** (b) If a juvenile or a parent with custody of a child juvenile fails
15 to pay a forfeiture as ordered by a court assigned to exercise jurisdiction under chs.
16 48 and 938, a court of criminal jurisdiction or a municipal court, if a juvenile or a
17 parent with custody of a juvenile fails to pay costs as ordered by the court assigned
18 to exercise jurisdiction under chs. 48 and 938 or a municipal court, if a child juvenile
19 fails to pay a surcharge as ordered by a court assigned to exercise jurisdiction under
20 chs. 48 and 938 or a court of criminal jurisdiction or if it appears likely that the
21 juvenile or the parent will not pay the forfeiture or surcharge as ordered, the
22 representative of the public interest under s. 938.09, the agency, as defined in s.
23 938.38 (1) (a), supervising the juvenile or the law enforcement agency that issued the
24 citation to the juvenile may petition the court assigned to exercise jurisdiction under

1 chs. 48 and 938 to order that the amount of the forfeiture or, surcharge or costs
2 unpaid by the juvenile or parent be entered and docketed as a judgment against the
3 juvenile and the parent with custody of the juvenile and in favor of the county or
4 appropriate municipality. A petition under this paragraph may be filed after the
5 expiration of the dispositional order or sentence under which the forfeiture or,
6 surcharge or costs is payable, but no later than one year after the expiration of the
7 dispositional order or sentence or any extension of the dispositional order or
8 sentence.

9 **SECTION 44m.** 938.06 (5) of the statutes, as affected by 1997 Wisconsin Act ...
10 (Assembly Bill 410), is amended to read:

11 938.06 (5) (title) SHORT-TERM DETENTION AS A DISPOSITION OR SANCTION OR FOR
12 VIOLATION OF ORDER. The county board of supervisors of any county may, by
13 resolution, authorize the court to use placement in a secure detention facility or
14 juvenile portion of the county jail as a disposition under s. 938.34 (3) (f), as a sanction
15 under s. 938.355 (6m) (a) 1g. or as a place of short-term detention under s. 938.355
16 (6d) (a) 1. or 2. or (b) 1. or 2. or 938.534 (1) (b) 1. or 2. or to use commitment to a county
17 department under s. 51.42 or 51.437 for special treatment or care in an inpatient
18 facility, as defined in s. 51.01 (10), as a disposition under s. 938.34 (6) (am). The use
19 by the court of a disposition under s. 938.34 (3) (f) or (6) (am), a sanction under s.
20 938.355 (6m) (a) 1g. or short-term detention under s. 938.355 (6d) (a) 1. or 2. or (b)
21 1. or 2. or 938.534 (1) (b) 1. or 2. is subject to any resolution adopted under this
22 subsection.”.

23 **5.** Page 15, line 16: delete lines 16 to 125

24 **6.** Page 16, line 1: delete lines 1 to 14 and substitute:

1 “**SECTION 49m.** 938.17 (2) (h) 1. of the statutes, as affected by 1997 Wisconsin
2 Act (Assembly Bill 410), is amended to read:

3 938.17 **(2)** (h) 1. If a juvenile who has violated a municipal ordinance, other
4 than an ordinance enacted under s. 118.163 (1m) or (2), violates a condition of his or
5 her dispositional order, the municipal court may impose on the juvenile any of the
6 sanctions specified in s. 938.355 (6) (d) 2. to 4. that are authorized under par. (cm)
7 except for monitoring by an electronic monitoring system or may petition the court
8 assigned to exercise jurisdiction under this chapter and ch. 48 to impose on the
9 juvenile the sanction specified in s. 938.355 (6) (d) 1. or home detention with
10 monitoring by an electronic monitoring system as specified in s. 938.355 (6) (d) 3., if
11 authorized under par. (cm), if at the time of judgment the court explained the
12 conditions to the juvenile and informed the juvenile of the possible sanctions under
13 s. 938.355 (6) (d) that are authorized under par. (cm) for a violation or if before the
14 violation the juvenile has acknowledged in writing that he or she has read, or has had
15 read to him or her, those conditions and possible sanctions and that he or she
16 understands those conditions and possible sanctions.

17 “**SECTION 50m.** 938.17 (2) (i) 1. of the statutes, as created by 1997 Wisconsin
18 Act (Assembly Bill 410), is amended to read:

19 938.17 **(2)** (i) 1. If a juvenile who has violated a municipal ordinance enacted
20 under s. 118.163 ~~(2)~~ (1m) violates a condition of his or her dispositional order, the
21 municipal court may impose on the juvenile any of the sanctions specified in s.
22 938.355 (6m) ~~that are authorized under par. (cm)~~ (ag), if at the time of judgment the
23 court explained the conditions to the juvenile and informed the juvenile of ~~the~~ those
24 possible sanctions under s. 938.355 (6m) ~~that are authorized under par. (cm)~~ for a
25 violation or if before the violation the juvenile has acknowledged in writing that he

1 or she has read, or has had read to him or her, those conditions and possible sanctions
2 and that he or she understands those conditions and possible sanctions.

3 **SECTION 50p.** 938.17 (2) (i) 2. of the statutes, as created by 1997 Wisconsin Act
4 (Assembly Bill 410), is renumbered 938.17 (2) (i) 3g.

5 **SECTION 50r.** 938.17 (2) (i) 2m. of the statutes is created to read:”.

6 **7.** Page 16, line 19: delete “1.” and substitute “1g.”.

7 **8.** Page 16, line 20: delete “1.” and substitute “1g.”.

8 **9.** Page 17, line 3: delete lines 3 to 11 and substitute:

9 “**SECTION 50t.** 938.17 (2) (i) 3. of the statutes, as created by 1997 Wisconsin Act
10 (Assembly Bill 410), is renumbered 938.17 (2) (i) 4. and amended to read:

11 938.17 (2) (i) 4. Before imposing any sanction, the court shall hold a hearing,
12 at which the juvenile may present evidence. Except as provided in s. 901.05, neither
13 common law nor statutory rules of evidence are binding at a hearing under this
14 subdivision.

15 **SECTION 50u.** 938.17 (2) (i) 4m. of the statutes is created to read:”.

16 **10.** Page 17, line 13: delete “1.” and substitute “1g.”.

17 **11.** Page 17, line 16: delete “1.” and substitute “1g.”.

18 **12.** Page 18, line 3: delete lines 3 to 10 and substitute:

19 “**SECTION 53m.** 938.275 (1) (c) of the statutes, as affected by 1997 Wisconsin Act
20 (Assembly Bill 410), is amended to read:

21 938.275 (1) (c) If the court imposes a sanction on a juvenile as specified in s.
22 938.355 (6) (d) or (6m) (a) or (ag) or finds the juvenile in contempt under s. 938.355
23 (6g) (b) and orders a disposition under s. 938.34 or if the juvenile is placed in a secure
24 detention facility or place of nonsecure custody under s. 938.355 (6d) (a), (b) or (c) or

1 938.534 (1) (b) or (c), the court shall order the parents of the juvenile to contribute
2 toward the cost of the sanction, disposition or placement the proportion of the total
3 amount which the court finds the parents are able to pay.”.

4 **13.** Page 18, line 23: after that line insert:

5 “**SECTION 54m.** 938.32 (1t) (a) 1. of the statutes, as affected by 1997 Wisconsin
6 Act (Assembly Bill 410), is amended to read:

7 938.32 (1t) (a) 1. Subject to subd. 3., if the petition alleges that the juvenile
8 committed a delinquent act that has resulted in damage to the property of another,
9 or in actual physical injury to another excluding pain and suffering, the judge or
10 juvenile court commissioner may require the juvenile as a condition of the consent
11 decree, to repair the damage to property or to make reasonable restitution for the
12 damage or injury if the judge or juvenile court commissioner, after taking into
13 consideration the well-being and needs of the victim, considers it beneficial to the
14 well-being and behavior of the juvenile. Any consent decree that includes a
15 condition of restitution by a juvenile shall include a finding that the juvenile alone
16 is financially able to pay and may allow up to the date of the expiration of the consent
17 decree for the payment. Objection by the juvenile to the amount of damages claimed
18 shall entitle the juvenile to a hearing on the question of damages before the amount
19 of restitution is made part of the consent decree. Any recovery under this subdivision
20 shall be reduced by the amount recovered as restitution for the same act under subd.
21 1m.”.

22 **14.** Page 22, line 14: delete lines 14 to 25.

23 **15.** Page 23, line 1: delete lines 1 to 25 and substitute:

1 **“SECTION 65m.** 938.355 (6) (a) of the statutes, as affected by 1997 Wisconsin
2 Act (Assembly Bill 410), is amended to read:

3 938.355 **(6)** (a) If a juvenile who has been adjudged delinquent or to have
4 violated a civil law or ordinance, other than an ordinance enacted under s. 118.163
5 (1m) or (2), violates a condition specified in sub. (2) (b) 7., the court may impose on
6 the juvenile any of the sanctions specified in par. (d) if, at the dispositional hearing
7 under s. 938.335, the court explained the conditions to the juvenile and informed the
8 juvenile of those possible sanctions or if before the violation the juvenile has
9 acknowledged in writing that he or she has read, or has had read to him or her, those
10 conditions and possible sanctions and that he or she understands those conditions
11 and possible sanctions. If a juvenile who has been found to be in need of protection
12 or services under s. 938.13 (4), (6m), (7), (12) or (14) violates a condition specified in
13 sub. (2) (b) 7., the court may impose on the juvenile any of the sanctions specified in
14 par. (d), other than placement in a secure detention facility or juvenile portion of a
15 county jail, if, at the dispositional hearing under s. 938.335, the court explained the
16 conditions to the juvenile and informed the juvenile of those possible sanctions or if
17 before the violation the juvenile has acknowledged in writing that he or she has read,
18 or has had read to him or her, those conditions and possible sanctions and that he or
19 she understands those conditions and possible sanctions. The court may not order
20 the sanction of placement in a place of nonsecure custody specified in par. (d) 1.
21 unless the court finds that the agency primarily responsible for providing services
22 for the juvenile has made reasonable efforts to prevent the removal of the juvenile
23 from his or her home and that continued placement of the juvenile in his or her home
24 is contrary to the welfare of the juvenile.

1 **SECTION 66m.** 938.355 (6) (an) 1. of the statutes, as affected by 1997 Wisconsin
2 Act (Assembly Bill 410), is amended to read:

3 938.355 **(6)** (an) 1. If a juvenile who has violated a municipal ordinance, other
4 than an ordinance enacted under s. 118.163 (1m) or (2), violates a condition of a
5 dispositional order imposed by the municipal court, the municipal court may petition
6 the court assigned to exercise jurisdiction under this chapter and ch. 48 to impose
7 on the juvenile the sanction specified in par. (d) 1. or the sanction specified in par. (d)
8 3., with monitoring by an electronic monitoring system, if, at the time of the
9 judgment the municipal court explained the conditions to the juvenile and informed
10 the juvenile of those possible sanctions for a violation or if before the violation the
11 juvenile has acknowledged in writing that he or she has read, or has had read to him
12 or her, those conditions and possible sanctions and that he or she understands those
13 conditions and possible sanctions. The petition shall contain a statement of whether
14 the juvenile may be subject to the federal Indian child welfare act, 25 USC 1911 to
15 1963.”

16 **16.** Page 24, line 4: delete lines 4 to 25.

17 **17.** Page 25, line 1: delete lines 1 to 7 and substitute:

18 “**SECTION 68m.** 938.355 (6m) (a) (intro.) of the statutes, as affected by 1997
19 Wisconsin Act (Assembly Bill 410), is amended to read:

20 938.355 **(6m)** (a) (intro.) If the court finds by a preponderance of the evidence
21 that a juvenile who has been found to have violated a municipal ordinance enacted
22 under s. 118.163 (2) or who has been found to be in need of protection or services
23 under s. 938.13 (6) has violated a condition specified under sub. (2) (b) 7., the court
24 may order as a sanction any combination of the sanctions specified in subds. 1- 1g.

1 to 3. and the dispositions specified in s. 938.342 ~~(1)~~ (1g) (d) to ~~(f)~~ (j) and (1m),
2 regardless of whether the disposition was imposed in the order violated by the
3 juvenile, if at the dispositional hearing under s. 938.335 the court explained those
4 conditions to the juvenile and informed the juvenile of the possible sanctions under
5 this paragraph for a violation or if before the violation the juvenile has acknowledged
6 in writing that he or she has read, or has had read to him or her, those conditions and
7 possible sanctions and that he or she understands those conditions and possible
8 sanctions. The court may order as a sanction ~~or limitation on the use~~ under this
9 paragraph any of the following:

10 **SECTION 68p.** 938.355 (6m) (a) 1. of the statutes, as created by 1997 Wisconsin
11 Act (Assembly Bill 410), is renumbered 938.355 (6m) (a) 1m.

12 **SECTION 69m.** 938.355 (6m) (a) 1g. of the statutes is created to read:".

13 **18.** Page 25, line 8: delete "1." and substitute "1g."

14 **19.** Page 26, line 12: delete "1." and substitute "1g."

15 **20.** Page 26, line 20: delete "(a) 1." and substitute "(a) 1g."

16 **21.** Page 26, line 22: delete "1." and substitute "1g."

17 **22.** Page 26, line 23: delete lines 23 to 25.

18 **23.** Page 27, line 1: delete lines 1 to 6 and substitute:

19 **"SECTION 72m.** 938.355 (6m) (b) of the statutes, as affected by 1997 Wisconsin
20 Act (Assembly Bill 410), is amended to read:

21 938.355 **(6m)** (b) A motion for the imposition of a sanction under par. (a) or (ag)
22 may be brought by the person or agency primarily responsible for providing
23 dispositional services to the juvenile, the district attorney, the corporation counsel
24 or the court that entered the dispositional order. If the court initiates the motion,

1 that court is disqualified from holding a hearing on the motion. Notice of the motion
2 shall be given to the juvenile, guardian ad litem, counsel, parent, guardian, legal
3 custodian and all parties present at the original dispositional hearing.”.

4 **24.** Page 28, line 14: delete lines 14 to 18 and substitute:

5 “(3m) The treatment of sections 938.06 (5), 938.17 (2) (h) 1. and (i) 1., 2., 2m.,
6 3. and 4m. and 938.355 (6) (a) and (an) 1. and (6m) (title), (a) (intro.), 1. and 1g. (ag),
7 (am), (b) and (c) of the statutes first applies to dispositional orders entered on the
8 effective date of this subsection.”.

9 (END)